

**ORDINANCE NO. 2003-1334
Amendments 2008-1460**

Architectural Review Board

WHEREAS, the legislature of the State of Kentucky through the Kentucky Heritage Council has recognized the importance of protecting and preserving places and areas of historical and cultural importance and to promote renovation and rehabilitation by empowering cities to adopt regulations and restrictions for the protection of such places and areas; and

WHEREAS, the City Council of the City of Murray deems it is in the public interest to take further steps to protect the city's historic areas and historic buildings, specifically the Historic District from demolition and inappropriate alterations and to encourage the rehabilitation of buildings and appropriate new construction on land within the Historic District of the City of Murray; and

WHEREAS, the City Council wishes to help owners to continue to use their historic buildings;

NOW, THEREFORE, be it ordained by the City Council of the City of Murray that

Section 1 32.65 Purpose and Intent

- A. The purpose of this section is to promote within the City of Murray, specifically the Historic District, the educational, cultural, economic and general welfare of the community
- B. Having the Council provide a mechanism to identify and preserve the distinctive historic and architectural characteristics of Murray, specifically the Historic District, which represent the city's cultural, social, economic, political and architectural history.
- C. The Council finds that the historic and architectural character of Murray is of vital importance in maintaining the economy of the City.
- D. The Council finds that Murray plays an important role in the history of Kentucky and that the buildings of Murray represent the activities and growth that made the City what it is today. The Council finds that the City has buildings representing the people who live in Murray now as well as those who lived in Murray for a period of over 100 years. It is the finding of the Council that the distinctive and significant character of Murray can only be maintained by protecting and enhancing its historical, architectural and cultural heritage and by preventing unnecessary injury to its historic districts and its landmarks which are a civic and community asset.

- E. The Council finds that the Federal and Kentucky Governments have passed laws to protect historic districts and landmarks and that the National Historic Preservation Act was amended in 1980 to establish a Certified Local Government program creating a new federal-state-local partnership to encourage the efforts by cities to protect and preserve their historic districts and landmarks.
- F. The Council finds that the adoption of an Ordinance to provide a historic preservation program within the Historic District will benefit all the residents of Murray and all the owners of property.
- G. The Council declares as a matter of public policy that the preservation, protection, and use of historic districts and landmarks are a public benefit because they have special character and historic, architectural and cultural value and thus serve as visible reminders of the history and heritage of the City, state and nation. The Council declares as a matter of public policy that this Ordinance is required in the interest of the health, prosperity, safety, welfare and economic well-being of the people.
- H. The Council finds that the Main Street program has contributed to the revival of the central business district of Murray, that it has increased the awareness of the value of the older buildings in the City and that the historic preservation program will strengthen the current revitalization work in the City.
- I. The purpose of this Ordinance is to effect the goals as set forth in the above findings and declarations of public policy and specifically, but not exclusively, to:
 - 1. Effect and accomplish the preservation and protection in the historic districts of Murray which have a special character and historic, architectural and cultural value to the City, state and nation;
 - 2. Promote the educational, cultural, economic and general welfare of the people and safeguard the City's history and heritage embodied and reflected in its historic district(s) and landmarks in the City of Murray;
 - 3. Stabilize and improve property values in such districts and in the City as a whole;
 - 4. Foster civic pride in the value of notable accomplishments of the past;
 - 5. Strengthen the economy of the City;
 - 6. Protect and enhance the City's attractions to residents and visitors; and
 - 7. Enhance the visual and aesthetic character, diversity and interest of the City.

Section 2 32.66 Definitions

For the purpose of this Ordinance, certain terms are defined as follows:

Alteration – Any construction, replacement, or change to the exterior of a building or structure when it is visible to the public. An alteration shall include a proposed sign or changes to an existing sign. Painting and ordinary maintenance and repairs shall not be considered alterations.

Board – The Murray Architectural Review Board

Building – Any structure designed or constructed for residential, commercial, industrial, agricultural or other use.

Certificate of Appropriateness – The permit, issued by the Architectural Review Board, which gives its approval for work or demolition to be done in a historic district or on a landmark.

Certified Local Government – A government meeting the requirements of the National Historic Preservation Act and the implementing of regulations of the U.S. Department of the Interior and the Kentucky Heritage Council.

Council – The Murray City Council.

Demolition – Any act that destroys in whole or in part a landmark or a building or structure in an historic district.

Designated Property – A landmark or a building or structure in an historic district. Designated property shall include all lots within an historic district and the entire lot containing a landmark.

Historic District – An area of architectural, historical or cultural significance which has been designated by the City of Murray.

Landmark – A building or structure of architectural, historical or cultural significance which has been designated by the City of Murray.

Major Structural Change – Structural alterations and structural repairs made within any twelve (12) month period costing in excess of fifty percent (50%) of the physical value of the structure, as determined by the difference in the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alteration are approved.

New Construction – An addition to an existing building or structure or the construction of a new building or structure.

Ordinary Maintenance and Repairs – Any work, the purpose of which is to correct deterioration or to prevent deterioration of a designated historic property. The work shall restore the property to its appearance prior to deterioration or shall result in the protection of its present appearance. The work shall involve the use of the same building materials or available materials that are as close as possible to the original. Work changing the appearance of the exterior of a property shall be considered an alteration for purposes of this Ordinance.

Section 3 32.67 Architectural Review Board

A. Establishment

There is hereby established the Murray Architectural Review Board. The Board shall consist of five members appointed by the Mayor and approved by the

Council. The members shall have demonstrated interest in historic preservation, and at least two members shall have training or experience in a preservation-related profession; architecture, history, archaeology, architectural history, planning or related fields. When one or two professional members are not available, the Mayor may appoint other persons interested in historic preservation to serve. When the Board reviews an issue that is normally evaluated by a professional member and that field is not represented on the Board, the Board shall seek expert advice before rendering its decision. Members of the Board shall serve without compensation, but they shall be reimbursed for expenses incurred in the performance of their duties in accordance with the rules adopted by the Board. Each member shall attend at least one educational meeting on historic preservation per year. This meeting shall have been approved by the State Historic Preservation Officer.

B. Terms of Office

The terms of office of the members shall be three years, except the terms of two members of the original Board shall expire after two years and the terms of two members of the original Board shall expire after one year. Each member shall serve until the appointment and qualification of his successor. Vacancies on the Board shall be filled within sixty (60) days, and the person selected shall be appointed for the unexpired portion of the term.

C. Officers

The Board shall each year elect members to serve as Chairman, Vice Chairman, and Secretary. The Chairman shall preside at the meetings of the Board and shall be spokesperson for the Board. In his absence, the Vice Chairman shall perform these duties. The Secretary shall prepare the minutes of the Board's meetings which shall be available for public inspection.

D. Conflict of Interest

No member of the Board shall vote on any matter that may affect the property, income or business interest of that member.

Section 4 32.68 Powers and Duties of the Board

A. Specific Powers

In addition to the powers and duties stated elsewhere, the Board shall take action necessary and appropriate to accomplish the purpose of this Ordinance. These actions may include, but are not limited to the following:

1. Conducting a survey of historic buildings and areas and preparing a plan for their preservation;
2. Soliciting public input for the purpose of collecting information to assist in making recommendations to the Planning and Zoning Commission and City Council.
3. Recommending to the City Council and the Planning and Zoning Commission designation of historic districts and individual landmarks;
4. Adopting written Historic Preservation Design Guidelines for making exterior changes to designated property and for undertaking new construction on designated property. The Board may expand or amend the Historic Preservation Design Guidelines, provide it holds a public hearing on the changes and submits the proposed changes to the City Council for their comments and approval;
5. Recommending alterations visible to the public that are proposed for designated property; review and input on demolitions, relocations, and new construction involving designated property;
6. Working with and advising the Federal, State and County governments and other parts of City government;
7. Advising and assisting property owners and other persons and groups including neighborhood organizations who are interested in historic preservation; and
8. Conducting educational programs including the preparation of publications and the placing of historical markers.

B. Rehabilitation of Buildings

The Board may initiate and encourage plans for the preservation and rehabilitation of individual historic buildings. The Board shall, on a regular basis, give recognition to owners and tenants who maintain or rehabilitate their historic buildings with care and thus contribute to the preservation of the history of Murray.

C. Survey of Historic Buildings

In making its survey of historic buildings and areas, the Board shall conduct this work in accordance with the guidelines of the Kentucky Heritage Council. The Board shall provide that its survey and preservation plan shall be maintained and continued. The Board shall use the preservation plan to assist the City and the Planning and Zoning Commission in their overall planning efforts.

D. Meetings of the Board

The Board shall adopt and make public rules for the transaction of its business and shall hold quarterly public meetings and special public meetings when necessary. All meetings shall have a previously available agenda and shall

comply with the Kentucky Open Meeting Statute, KRS 61.805. A simple majority of the membership shall be required for decisions involving historic districts and landmarks.

E. Annual Report

The Board shall prepare and keep on file, available for public inspection, a written annual report of its activities, cases, decisions, qualifications of members and other work.

F. Recommendations and Designations

The Architectural Review Board, Planning Commission, the City Council, a property owner, any resident of Murray or any organization may ask the Board to study a property or an area and then to vote on whether or not to start the process for designating it as historic.

G. Public Hearing and Notice

To start the designation process, the Board shall assemble information about the district or property being considered for designation and shall schedule a public hearing on the proposed designation. Notice of such hearings shall be published as required by Kentucky Revised Statutes Chapter 424, including conspicuous posting in the proposed district or on the lot of the proposed landmark or property for fourteen (14) consecutive days immediately prior to the hearing. At least written fourteen (14) days prior to the public hearing written notice shall be given by first class mail to the owners of the property under consideration. Written notice shall be considered sufficient when it is mailed to the person listed at the Property Valuation Administration of the County. Owners and any interested person may present testimony and evidence at the public hearing on the designation. The record on the designation may also include letters received by the Board.

H. Criteria for Designation

A historic district or a landmark or property shall qualify for designation when it meets one or more of the following criteria which shall be noted in the Board report making its recommendation to the Planning Commission:

- (1) Its character as an established and geographically definable residential neighborhood, agricultural area, or business district united by culture, architectural styles or physical plan and development;
- (2) Its character as a geographically definable area possessing a significant concentration of buildings or structures united by past events or by its plan or physical development;
- (3) Its location as a site of a significant local, state or national event;

(4) Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance; or

H. Report of the Planning Commission

The Planning Commission shall hold a public hearing, after which it shall report on the relationship between the proposed historic district designation and the existing and future plans for the development of the city. If the Planning Commission recommends the approval of the proposed historic district designation, it shall prepare a proposed overlay for the zoning map showing said historic district. The Planning Commission shall forward its comments and recommendation for the proposed zoning map overlay district to the Council. If the Planning Commission does not approve of the proposed designation it shall forward its comment to the City Council in the form of a recommendation.

I. Action by the Council

The Council shall hold a public hearing before establishing the overlay district. If approved, the official zoning map shall be amended within sixty (60) days after receiving the recommendation for the proposed overlay from the Planning Commission.

K. Relationship to Zoning

The property in a historic district shall be subject to the Zoning Ordinance and Subdivision Regulations and other rules of its underlying zoning district. A landmark shall be subject to the Zoning Ordinance and Subdivision Regulations and other rules of its zoning district. Where there is a conflict between this ordinance and the Zoning Ordinance or Subdivision Regulations, the higher standard shall govern. Upon establishment of an overlay district, development within the area shall conform to all zoning regulations applicable to the area and shall also conform to all historic overlay district regulations.

L. Amendment or Rescission of the Designation

The amendment or rescission of any designation shall be accomplished through the same steps as were followed in the original designation.

Section 4 32.69 Approval of Changes to Landmarks and Property in Historic Districts

A. Requirement for Certificate of Appropriateness

1. A Certificate of Appropriateness from the Board shall be required before a person may undertake the following actions affecting a landmark or a property in an historic district:

1. Alteration of the exterior part of a building or structure that is visible to the public,
2. New construction,
3. Demolition, or
4. Relocation.

2. A Certificate of Appropriateness is required even when the proposed work does not require a building permit. When seeking a building permit for a project involving designated property, a person must submit a Certificate of Appropriateness approving any of the work before the building permit can be issued.

B. Application to the Board

A person shall be referred to the Board by the Planning Department when he wants to undertake an exterior alterations visible to the public, new construction, a demolition or relocation affecting a landmark or a property in the historic district. The person shall supply the Board with the information it requests in order to obtain a Certificate of Appropriateness. The applicant shall provide where applicable, drawings of the proposed work, photographs of the existing building or site and adjacent properties, and information about the building materials to be used.

Stop Work Order: In the event work is being performed without the required Certificate of Appropriateness, the Board or City official shall direct the Building Inspector to issue a Stop Work Order. All work shall cease on the designated property. No additional work shall be undertaken as long as such Stop Work Order shall continue in effect. The Board shall meet with the owner or his agent to resolve the problem.

C. Action by the Board of Architectural Review; Notice

The Board shall hold a public hearing on each Certificate of Appropriateness within thirty (30) days after a completed application is received by the Board. The Board shall make its recommendations on the application within thirty (30) days after the receipt of a completed application provided that the Board may extend the time for recommendations an additional thirty (30) days when the application is for a demolition or new construction. The Board shall approve or disapprove each application and shall give its reasons for decision based on the criteria contained in this section and in its guidelines. The Board may suggest modifications to an application and where agreed upon by the owner or his agent may then approve a Certificate of Appropriateness providing for revisions in the

plans submitted. If the Board fails to decide on the application within the specified time period, the application shall be deemed approved. Applicants shall be given notice of the public hearings and meetings relating to their application and shall be informed of the Board's decision. When an application has been approved, the applicant shall be given a Certificate of Appropriateness. Advertised notice of the public hearing shall be given, including conspicuous posting on the property for five (5) consecutive days immediately prior to the hearing.

D. Criteria in Deciding on Applications

In making a decision on an application, the Board shall use its guidelines. The Board shall consider: (1) the effect of the proposed work on the landmark or the property in the historic district upon which such work is to be done, and (2) the relationship between such work and other adjacent or nearby buildings and property. In evaluating the effect and the relationship, the Board shall consider historical and architectural significance, architectural style, design, texture, materials and color. The Certificate from the Board shall not relieve the applicant from complying with the requirements of other state and local laws and regulations.

E. Consultation with Applicants

Before an applicant prepares his plans, he may bring a tentative proposal to the Board for its comments. The Board shall be aware of the importance of finding a way to meet the current needs of the applicant. The Board shall also recognize the importance of making recommendations that will be reasonable for the applicant to carry out.

F. Routine Alterations: Ordinary Maintenance and Repairs

The Board may prepare a list of routine alterations that may receive immediate approval without a public hearing, when an applicant complies with the written guidelines of the Board. At each meeting the Board shall be informed of the Certificates of Appropriateness that have been issued under this provision. The Board shall not regulate the color of paint used on designated property, but it may prepare and distribute material on paint colors appropriate for different types and styles of buildings. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided the work on a landmark or a property in an historic district does not change its exterior appearance that is visible to the public. Every person in charge of a landmark or a property in an historic district shall keep it in good repair: (1) all of the exterior portions of such buildings or structures; and (2) all interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise to fall into a state of disrepair. The purpose of this provision is to prevent a person from forcing the demolition of his building by neglecting it and

by permitting damage to the building because of weather or vandalism. No provision in this Ordinance shall be interpreted to require an owner or tenant to undertake an alteration or to restore his building to its original appearance. The provisions of this section shall be in addition to the provisions of the Kentucky Building Code requiring buildings and structures to be kept in good repair.

G. Meetings with Owners about Condition of Buildings

The Board shall request a meeting with a property owner when his landmark or his building in an historic district is in poor repair, and the Board shall discuss with the owner ways to improve the condition of his property. After this step, the Board may request the Building Inspector to take action to require correction of defects in conflict with the City's building code and property maintenance code of any building or structure designated under this Ordinance so that such building or structure shall be preserved in accordance with the purposes of the Ordinance. Action taken by the City may include boarding up the doors, windows, and other parts of the building and additional steps to stabilize walls, roofs and other parts of the building or structure.

H. Emergency Situations

In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting a landmark or a property in an historic district, he may order the remedying of these conditions without the approval of the Board. When it is possible, he shall consult with the Chairman or Vice Chairman of the Board about the action being taken. If consultation is not possible, the City shall notify the Board of the action taken after the completion of the work.

I. Demolition of a Landmark or a Building or Structure in an Historic District

When an applicant wishes to demolish a landmark or a building or structure in an historic district, the Board shall negotiate with the applicant to see if an alternative to demolition can be found. The Board may ask interested individuals and organizations for assistance in seeking an alternative to demolition and in obtaining estimates on rehabilitation costs for the threatened building. After its public hearing, the Board may decide that the building or structure in an historic district may be demolished because it does not contribute to the historic district. On all other demolition applications, the Board shall study the question of economic hardship for the applicant and shall determine whether the landmark or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income-producing building, the Board shall also determine whether the applicant can obtain a reasonable return from his building. The Board may ask applicants for additional information to be used in making these determinations. If economic hardship or the lack of a reasonable return is not proved, the Board shall deny the demolition

application unless the Board finds grounds to grant the demolition application under the points contained in Section 32.68 (A)(D).

J. Moving a Landmark or a Building or Structure in an Historic District

When an applicant wishes to move a landmark or a building or structure in a historic district or when an applicant wishes to move a building or structure to a lot containing a landmark or to a property in an historic district, the Board shall consider: (1) the contribution the building or structure makes to the present setting; (2) whether there are definite plans for the site to be vacated; (3) whether the building or structure can be moved without significant damage to its physical integrity; and (4) the compatibility of the building or structure to its proposed site and adjacent properties. These considerations shall be in addition to the points contained in section 32.68 (A)(D).

K. Length of Validity of Certificate of Appropriateness

A Certificate of Appropriateness shall remain valid for six (6) months after it is issued. Work is required to start before the end of the six months period. If actual work is not commenced within six months the certificate is invalid. Actual work is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition is required preparatory to rebuilding, such excavation or demolition shall be deemed to be actual work provided that it shall be carried out diligently.

L. Appeal of the Board's Decision

The applicant shall have a right to appeal a decision by the Board to the City Council on an application for a Certificate of Appropriateness, within thirty (30) days of the action of the Board.

M. Severability

The provisions of this Ordinance are hereby declared to be severable and, if any section, phrase or provision shall, for any reason, be declared invalid or unconstitutional, such declaration of invalidity or unconstitutionality shall not affect the validity of the remainder of this Ordinance. Any person violating any of the provision of this Ordinance shall be fined not less than ten dollars (\$10), nor more than five hundred dollars (\$500) for each offense. Each day's violation shall constitute a separate offense.

Section 5 This Ordinance shall take effect upon its adoption, approval and publication as required by law.

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or

proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character be lost impaired or affected by this Ordinance.

All other sections and provisions of The Code of Ordinances for the City of Murray, not specifically amended herein, shall remain in full force and effect and shall not be considered amended and shall be incorporated by reference as if fully stated herein.

H. THOMAS RUSHING, MAYOR

ATTEST:

HARLA McCLURE, CITY CLERK

Introduced by the City Council on April 10, 2008.

Adopted by the City Council on April 24, 2008.

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